

## Message Text

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73

ACTION IO-13

INFO OCT-01 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10 RSC-01

CIAE-00 DODE-00 PM-07 H-02 INR-10 L-03 NSAE-00 NSC-10

PA-03 PRS-01 SS-15 USIA-12 ACDA-19 GAC-01 RSR-01 /166 W  
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P R 231820 Z MAY 73

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 9485

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L GENEVA 2469

E. O. 11652: GDS

TAGS: PFOR, UN

SUBJECT: DEFINITION OF AGGRESSION COMMITTEE:

CHAIRMAN'S REPORT, CONTACT GROUP II

1. IN WG MEETING PM MAY 23, CHAIRMAN PRESENTED PROGRESS REPORT ON WORK OF GC II ( LIST OF ACTS, INDIRECT USES, SELF- DETERMINATION). REPORT MAKES CLEAR WIDE DIVERGENCES OF OPINION STILL EXISTING ON SUBJECTS WITHIN PURVIEW OF THIS GROUP. DELEGATION WILL COMMENT FURTHER ON REPORT IN SEPTTEL. TEXT FOLLOWS.

2. QUOTE. CONTACT GROUP 2

AS TO THE ACTS PROPOSED FOR INCLUSION, THE CONTACT GROUP CONSIDERED AT THE LAST STAGES OF THE CONSULTATIONS THE FOLLOWING TEXT:

" ANY OF THE FOLLOWING ACTS, REGARDLESS OF A DECLARATION OF WAR, SHALL CONSTITUTE AN ACT OF AGGRESSION;

( A) THE INVASION OR ATTACK BY THE ARMED FORCES OF A STATE OF THE TERRITORY OF ANOTHER STATE, OR ANY MILITARY OCCUPATION, HOWEVER TEMPORARY, RESULTING FROM SUCH INVASION OR ATTACK, OR ANY ANNEXATION BY THE USE OF FORCE OF THE TERRITORY OF  
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ANOTHER STATE OR PART THEREOF;

( B) BOMBARDMENT BY THE ARMED FORCES OF A STATE AGAINST THE TERRITORY OF ANOTHER STATE OR THE USE OF ANY WEAPONS ( INCLUDING WEAPONS OF MASS DESTRUCTION) BY A STATE AGAINST THE TERRITORY OF ANOTHER STATE;

( C) THE BLOCKADE OF THE PORTS OR COASTS OF A STATE BY THE ARMED FORCES OF ANOTHER STATE;

( D) AN ATTACK BY THE ARMED FORCES OF A STATE ON THE LAND, SEA OR AIR FORCES, MARINE AND AIR FLEETS OF ANOTHER STATE;

( E) THE USE OF ARMED FORCES OF ONE STATE WHICH ARE WITHIN THE TERRITORY OF ANOTHER STATE WITH THE AGREEMENT OF THE RECEIVING STATE, IN CONTRAVENTION OF THE CONDITIONS PROVIDED FOR IN THE AGREEMENT OR ANY EXTENSION OF THEIR PRESENCE IN SUCH TERRITORY BEYOND THE TERMINATION OF THE AGREEMENT;

( F) THE ACTION OF A STATE PLACING ITS TERRITORY AT THE DISPOSAL OF ANOTHER STATE WHEN THE LATTER USES THIS TERRITORY FOR PERPETRATING AN ACT OF AGGRESSION AGAINST A THIRD STATE WITH THE ACQUIESCENCE AND AGREEMENT OF THE FORMER;

( G) THE SENDING BY OR ON BEHALF OF A STATE OF ARMED BANDS, GROUPS, IRREGULARS OR MERCENARIES, WHICH CARRY OUT INVASION OR ATTACK INVOLVING ACTS OF ARMED FORCE AGAINST ANOTHER STATE OF SUCH GRAVITY AS TO AMOUNT TO THE ACTS LISTED ABOVE, OR ITS OPEN AND ACTIVE PARTICIPATION THEREIN."

AS TO THE INTRODUCTORY PHRASE, IT WAS SUGGESTED THAT REDRAFTING WOULD BE NECESSARY TO ENSURE CONSISTENCY WITH OTHER PROVISIONS.

AS TO SUB- PARAGRAPH ( B), IT WAS PROPOSED THAT THE WORDS IN BRACKETS MAY BE DELETED IF THERE SHOULD BE INSTEAD A PARAGRAPH ON WEAPONS OF MASS DESTRUCTION IN THE PREAMBLE. THEREIS NO AGREEMENT YET ON THE WORDING TO BE ADOPTED. IT WAS ALSO PROPOSED THAT WEAPONS OF MASS DESTRUCTION SHOULD BE MENTIONED IN THE OPERATIVE PART OF THE DEFINITION.

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AS TO SUB- PARAGRAPH ( E), THE PROPOSAL HAS BEEN PRESENTED THAT THE WORDS " BEYOND THE TERMINATION OF THE AGREEMENT" BE DELETED AND REPLACED BY THE FOLLOWING WORDS: " AFTER THE AGREEMENT CEASES TO BE IN FORCE".

AS TO SUB- PARAGRAPH ( F), ONE MEMBER HAS RESERVED ITS POSITION.

AS TO SUB- PARAGRAPH ( G ) THERE WAS NO GENERAL AGREEMENT BUT THE TEXT REPRODUCED ABOVE WAS DISCUSSED FURING THE LAST STAGES OF CONSULTATIONS. IT WAS PROPOSED THAT THE INFIRECT USE OF FORCE SHOULD RATHER BE COVERED BY A SEPARATE ARTICLE THAN BY INCLUSION AS A SUB- PARAGRAPH TO THE LIST OF ACTS. THE WORDS " OR ITS COLLABORATION THEREIN" WERE STRONGLY OPPOSED WHEN THEY WERE FIRST INTRODUCED AT THE END OF THE TEXT AND THE OBJECTIONS REMAINED AS TO THE PRESENT WORDING: " OR ITS OPEN AND ACTIVE PARTICIPATION THEREIN". OTHERS FELT THAT THE LANGUAGE WAS TOO NARROW AND DID NOT COVER SOME ACTS WHICH SHOULD BE COVERED.

THERE WAS GENERAL AGREEMENT TO INCLUDE THE FOLLOWING TEXT TO THE DEFINITION OF AGGRESSION:

" THE ACTS ENUMERATED ABOVE ARE NEITHER EXHAUSTIVE NOR DO THEY PREVENT THE SECURITY COUNCIL FROM REFRAINING FROM THE DETERMINATION OF AN ACT OF AGGRESSION IF THE ACT CONCERNED IS TOO MINIMAL TO JUSTIFY SUCH ACTION. CONVERSELY, THE SECURITY COUNCIL MAY DETERMINE OTHER ACTS AS CONSTITUTING AGGRESSION UNDER THE PROVISIONS OF THE CHARTER."

AS TO THE RIGHT OF PEOPLES TO SELF- DETERMINATION THERE WAS NO GENERAL AGREEMENT AS TO THE TEXT TO BE ADOPTED. AT THE LAST STAGES OF CONSULTATIONS THE FOLLOWING TEXT WAS PRESENTED AND DISCUSSED:

" NONE OF THE PRECEDING PARAGRAPHS MAY BE INTERPRETED AS LIMITING THE SCOPE OF THE CHARTER' S PROVISIONS CONCERNING THE RIGHT OF PEOPLES TO SELF- DETERMINATION OR AS PREVENTING PEOPLES UNDER MILITARY OCCUPATION OR ANY FORM OF FOREIGN DOMINATION IN THEIR ACTIONS AGAINST AND RESISTANCE TO SUCH ALIEN DOMINATION FROM USING FORCE AND SEEKING OR RECEIVING SUPPORT AND ASSISTANCE IN ORDER TO EXERCISE THEIR INHERENT

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RIGHT TO SELF- DETERMINATION IN ACCORDANCE WITH THE PRINCIPLES OF THE CHARTER AND IN CONFORMITY WITH THE DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIEDNLY RELATIONS AND CO- OPERATION AMONG STATES."

TO THIS PARAGRAPH IT WAS LATER ADDED THAT THERE SHOULD BE INCLUDED IN THE PREAMBLE THE FOLLOWING PARAGRAPH:

" REAFFIRMING THE DUTY OF STATES NOT TO USE ARMED FORCES TO DEPRIVE PEOPLES OF THEIR RIGHT TO SELF- DETERMINATION AND FREEDOM AND INDEPENDENCE."

SOME MEMBERS RESERVED THEIR POSITIONS AS TO THE ABOVE TEXTS REFERRING EITHER TO PINTS OF DRAFTING OR TO THE SUBSTANCE.

ONE MEMBER PROPOSED THAT AFTER THE WORD " SELF- DETERMINATION"  
IN THE THIRD LINE, THE FOLLOWING WORDS BE ADDED: " SOVEREIGNTY  
AND TERRITORIAL INTEGRITY." END QUOTE. BASSIN

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